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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,389	11/29/2001	Richard S. Polevoy	2340-1-017	5557

23565 7590 11/21/2003

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/997,389

Applicant(s)

POLEVOY ET AL.

Examiner

Fredrick C Conley

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-13 is/are allowed.
- 6) ☒ Claim(s) 1-5, 8 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 14 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,867,853 to Feld in view of U.S. Pat. No. 4,109,887 to Wakeland.

In reference to claim 1, Feld discloses a snap on protective member 20 adapted to be affixed to a bed frame 10 component having exterior edges, said snap on member comprising an elongated member having outside edges, each of said outside edges having a lip adapted to fit around an exterior edge of the bed frame component (fig 2a,2b) wherein the elongated member intermediate said outside edges is slightly bowed away 27 from the bed frame component. Feld fails to disclose a projection formed in said elongated member adjacent to said lip. Wakeland discloses a protective member adapted to be affixed to a bed frame having a plurality of ribs/projections 101. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the plurality of ribs in order to create a frictional fit between the member and the bed frame.

Regarding claim 2, wherein said lip is curved (fig. 2a,2b).

Regarding claim 3, wherein said elongate member includes a plurality of ribs 101 extending outwardly from the elongate member to locate an external surface of the elongate member at a predetermined distance away from said component (Wakeland).

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Regarding claim 4, wherein said plurality of ribs 101 are adapted to contact said bed frame component to position an external surface a predetermined distance away from said component (Wakeland).

Regarding claim 5, wherein said elongated member is generally L-shaped in cross section so as to be affixed to a side rail of a bed frame (Feld).

In reference to claim 15, Feld discloses a method of protecting a bed frame having exterior edges, said method comprising the steps of:

providing an elongate member 20 having outside edges formed as curved lips (fig. 2a,2b)

snap fitting the elongate member onto the bed frame 10 component by forcing the curved lips to at least partially surround the exterior edges of the bed frame component to sandwich the exterior edges of the bed frame component between the curved lips. Feld fails to disclose a projection formed in said elongated member adjacent to said lip. Wakeland discloses a protective member adapted to be affixed to a bed frame having a plurality of ribs/projections 101. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the plurality of ribs in order to create a frictional fit between the member and the bed frame.

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Claims 8 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,867,853 to Feld in view of U.S. Pat. No. 4,109,887 to Wakeland, and further in view of U.S. Pat. No. 6,076,212 to Feld.

In reference to claims 8 and 16, Feld '853 discloses all of the Applicant's claimed limitations except for the elongate member comprising an extruded polyethylene. Feld '212 discloses an elongate member comprising an extruded polyethylene (col. 8 lines 34-38).

Regarding claim 17, wherein said step for providing an elongated member comprises providing a member having a generally L-shaped cross section (fig. 2a,2b)(Feld).

Allowable Subject Matter

Claims 9-13 are allowed.

Claims 6-7, 14, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are 305-7687 for regular communications and 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-2168.

FC

November 14, 2003


TERI PHAM LUU
PRIMARY EXAMINER